

FST-FA-04-0201276 : SUPERIOR COURT
NOWACKI, SUZANNE : JD STAMFORD/NORWALK
VS. : AT STAMFORD, CONNECTICUT
NOWACKI, MICHAEL : NOVEMBER 3, 2009

B E F O R E:

HONORABLE MARYLOUISE SCHOFIELD

A P P E A R A N C E S:

REPRESENTING THE PLAINTIFF:

KEVIN COLLINS, ESQ.

REPRESENTING THE DEFENDANT:

MICHAEL NOWACKI, PRO SE

REPRESENTING THE CHILDREN:

VERONICA E. REICH, ESQ.

PIPINA PLAKOPITAS
COURT RECORDING MONITOR

1 THE COURT: Calling the matter of Suzanne
2 Nowacki versus Michael Nowacki.

3 Would the parties please identify themselves,
4 for the record?

5 MR. COLLINS: Good morning, Your Honor.
6 Attorney Kevin Collins for the plaintiff, Suzanne
7 Nowacki, now known as Suzanne Sullivan.

8 MS. REICH: Good morning, Your Honor. I am
9 Veronica Reich. I am the attorney for the minor
10 children, Tim and Kerry Nowacki.

11 MR. NOWACKI: Your Honor, Michael Joseph
12 Nowacki, Pro Se.

13 THE COURT: Now, we were here yesterday in Court
14 on Attorney Reich's motion.

15 MS. REICH: Yes, Your Honor.

16 THE COURT: This was a motion for psychological
17 evaluation.

18 MS. REICH: Actually, it was a motion for order
19 regarding the psych eval.

20 THE COURT: Okay. And Mr. Nowacki asked to be
21 excused because he was ill.

22 MR. NOWACKI: Yes, Your Honor. I actually have
23 documentation that I would like to provide the Court.

24 THE COURT: Have you shown it to counsel?

25 MR. NOWACKI: I will be happy to.

26 THE COURT: Please show it to counsel.

27 MR. NOWACKI: May I approach the bench.

1 MR. COLLINS: I have no objection to it, Your
2 Honor.

3 THE COURT: Okay.

4 MS. REICH: Nor do I, Your Honor.

5 THE COURT: So, we're here today to proceed on
6 Attorney Reich's motion for order.

7 MR. COLLINS: Yes, Your Honor.

8 MS. REICH: Thank you, Your Honor.

9 Just by way of very, very brief background, Your
10 Honor. The parties in this matter were divorced in
11 June of 2005. There are two minor children. Tim was
12 15 last Sunday and Kerry will be 13 next week.

13 In February of 2009, there were certain
14 financial motions filed by the defendant, Mr.
15 Nowacki.

16 In June of '09, financial motions were also
17 filed by the plaintiff and a motion regarding
18 custody. A modification of the parenting issues was
19 filed by the plaintiff, as well, along with a motion
20 for psychological evaluation and the appointment of
21 an attorney for the minor children.

22 On July 2nd an order entered by Judge Malone
23 appointing me as attorney for the children and
24 ordering that a psychological evaluation is to be
25 determined after I meet with the clients and parties
26 and report to the Court. That was back in July.

27 In August, I filed this motion to report to the

1 Court as requested. And unfortunately, the matter
2 has been delayed almost a good number of months
3 already and we are ready to proceed and I am ready to
4 give the Court a recommendation of reference to a
5 psychological evaluation.

6 In that regard, Your Honor, just so that we may
7 have a full hearing on it, I do wish to point out
8 certain things to the Court.

9 I have met with my clients three times. I have
10 met several times with the parents. I've met them in
11 court a number of times. I've been to the homes. I
12 have had numerous telephone and e-mail contact with
13 them and I have made every attempt to review a great
14 deal of evidence that the parties have given to me.

15 I think that, in conclusion, there is a very
16 significant and pressing need for a psychological
17 evaluation in this case and that would be my
18 recommendation to the Court.

19 In support of that recommendation, I would just
20 like to make a few brief observations. First, from
21 Mr. Nowacki's point of view, he is adamant and has
22 used the phrase a number of times that Ms. Sullivan
23 is a malignant narcissist and that's in a lot of
24 documentation that he has supplied. And that's a
25 very serious psychological diagnosis, one that he nor
26 I nor anyone else here is qualified to make. And if
27 he is correct, that certainly is a significant issue

1 that were to impact on the children. There is one
2 reason for a psychological evaluation to determine if
3 that allegation has any merit whatsoever.

4 Secondly, Ms. Sullivan is requesting in her
5 motion and claiming that there is a significant
6 problem in the decision making process with Mr.
7 Nowacki.

8 They have joint legal custody and they have a
9 pretty equally shared parenting plan. And Ms.
10 Sullivan indicates that it's impossible to make
11 decisions and for a variety of reasons the children's
12 best interests are not served because of the way the
13 decision making process is being handled.

14 She's entitled to go forward with that motion.
15 She has a burden of proof and she's entitled to try
16 and meet it, but I believe it will be of great
17 assistance to the Court to have a psychological
18 evaluation of the parties and/or a custody study by a
19 psychologist to assist the Court and myself in -- the
20 Court in making the determination and me in
21 advocating the best interests of the minor children.

22 I do need to point out to the Court that in this
23 regard, when I first met with Mr. Nowacki, he gave me
24 this blue binder which was full of all kinds of
25 documentation regarding a very, very, serious claim
26 against Ms. Sullivan and a host of other parties
27 regarding tax fraud, perjury, misappropriation of

1 funds, a variety of serious criminal charges. And
2 this was Mr. Nowacki's compiled evidence regarding
3 those claims. This has been a very significant issue
4 for Mr. Nowacki.

5 On Friday, October 30th, at his request I picked
6 up from Kinko's in Stamford a large canvas satchel, I
7 think Mr. Nowacki has it here now, and it was full of
8 evidence with reference to those claims. It
9 consisted of a blue binder about four or five times
10 as thick as this one and I believe 14 manila
11 envelopes full of information.

12 Now, I did the best I could to go through it.
13 Mr. Nowacki was kind enough to give me a ten page
14 single spaced index of the exhibits. I certainly
15 went through that and I went through the
16 documentation.

17 It's very clear I did not read every page of
18 the 700 pages of information that he provided to me.
19 That was his estimation of the number of pages, not
20 mine. It was full of exhibits and transcripts and
21 notes and e-mails, bank statements, wills to refute
22 testimony given making allegations against Mr.
23 Collins, very serious ones, and purportedly all
24 that information proves a vast conspiracy with very
25 serious criminal repercussions regarding tax fraud by
26 Ms. Sullivan and practically every member of her
27 family that I know of, a string of people from

1 myself, various judges of the Superior Court, Senator
2 Dodd, a very long list of people.

3 THE COURT: Involved in the conspiracy?

4 MS. REICH: Yes, Your Honor. They are all
5 involved in some way with this conspiracy.

6 Mr. Nowacki has indicated to me and I've seen
7 copies of some of them of the filing by him of
8 certain 211 statements or reports.

9 Now, that is a notice to the IRS as far as I've
10 been able to determine regarding complaints pursuant
11 to the whistle blower provisions; that if there is an
12 allegation of misdoing and a person wishes the IRS to
13 investigate pursuant to whistle blower provisions,
14 then a 211 has to be filed. Mr. Nowacki has filed a
15 great number of those.

16 The Court might be wondering why I'm talking
17 about all this tax information when it comes to a
18 psychological evaluation issue and I have tried to
19 explain to Mr. Nowacki that although I have looked at
20 much of the evidence because he is emphatic that it
21 is relevant and I feel it's my duty to at least look
22 at it, Mr. Nowacki apparently feels that I cannot
23 make a recommendation regarding a psychological
24 evaluation without going through this evidence. I
25 disagree.

26 THE COURT: Why?

27 MS. REICH: Well, I disagree but to the extent

1 that I and I don't speak for him, but what he has
2 relayed to me is that he believes that this
3 information will inevitably lead to the -- to
4 accusations by a criminal court against Ms. Sullivan.
5 He is adamant that they will eventually lead to her
6 conviction and incarceration.

7 So, Mr. Nowacki feels, and again I am
8 paraphrasing what he has told to me, he can
9 certainly speak for himself, that since Ms.
10 Sullivan's incarceration is inevitable and he will
11 therefore need to quit his job and be a full-time
12 parent and that's a quote, that I need to take that
13 into consideration.

14 THE COURT: Well, he should tell that to the
15 psychologist not to you or me.

16 MS. REICH: Well, I agree, Your Honor. I am
17 just trying to lay the foundation here for the Court.
18 I agree wholeheartedly but I think that is the theory
19 behind all of this.

20 He has been pursuing these 211's and this
21 whistler blower action and the allegations about tax
22 fraud with great enthusiasm and diligence.

23 THE COURT: Well, how is he performing his job?

24 MS. REICH: I don't know that, Your Honor.

25 THE COURT: Okay.

26 MS. REICH: I know that he is parenting the
27 children half of the time. They have the assistance

1 of a nanny and he is very involved in his children's
2 activities and with his children.

3 How he is managing, I don't know but I think
4 that's also an excellent question. I believe that
5 the psych evaluation is critically necessary.

6 Mr. Nowacki is certainly welcome to try to prove
7 his allegations if the Court finds that they are
8 relevant, that's not my call, that's the Court's
9 call. But I do believe that the psychological
10 evaluation is absolutely necessary.

11 Mr. Nowacki has further indicated to me that I
12 need to go over all this evidence and if do and I
13 don't agree with him, then I am somehow complicit
14 again his word in this tax fraud because if I, as
15 a commissioner of the Superior Court, see this
16 incontrovertible evidence of wrong doing I along with
17 judges of the Superior Court are obligated to report
18 it and if we don't then we are complicit.

19 There was a flurry of e-mails over this weekend.
20 The e-mails from this weekend alone were about a
21 quarter of an inch thick. They concluded with an e-
22 mail sent at 10:09 on Sunday night to me from Mr.
23 Nowacki demanding that I call Kerry immediately and
24 ask her --

25 THE COURT: Who is Kerry?

26 MS. REICH: Kerry is the 13 year old daughter.
27 I should call Kerry immediately and ask her about

1 whether she said that if her Dad wanted to be at her
2 doctor's appointment that she consented to that.

3 Veronica, please ask Kerry how much her Daddy
4 loves her while you are having the call.

5 I declined to make that phone call.

6 THE COURT: At 10:09 at night on a Sunday?

7 MS. REICH: I received that e-mail at 10:09
8 at night on Sunday evening in advance of Monday
9 morning's hearing.

10 I go through all this information, Your Honor,
11 to support my claim that a psychological evaluation
12 is necessary and to allow the Court to understand
13 that it is my opinion, and if the Court says I'm
14 wrong, I will do my due diligence. But in my
15 opinion, I neither need to review all the evidence of
16 tax fraud nor do I need to come to any conclusion
17 about it.

18 I need to bring one other issue to the Court's
19 attention before I report to the Court on my
20 investigation of various psychologists if the Court
21 decides that one should -- that evaluation should
22 occur.

23 Mr. Nowacki when he asked me about what I was
24 going to recommend and I told him appeared to me that
25 a psych eval is necessary, apparently felt that I was
26 very remiss in my due diligence and he made a great
27 number of statements in that regard against me.

1 He started calling all the members of my firm,
2 Bai, Pollock, Blueweiss and Mulcahey and he sent an
3 e-mail to the one of the senior partners, it's three
4 pages, it's single-spaced with I failed to listen
5 attentively, I did all kinds of awful things, I'm
6 close-minded, I refused to meet in person, which is
7 not true.

8 I am not going to read it all to the Court but
9 the one part that I do want to bring to the Court's
10 attention is the statement that, the failure of your
11 firm via Attorney Reich to allow me to present
12 evidence is merely an attempt by Attorney Reich to
13 hide the issues of tax fraud that is resulted in a
14 conflict of interest for Attorney Reich who is now
15 under a complaint for her role in non-compliance with
16 her attorney's oath which is to provide truthful
17 information about her client's involvement in this
18 tax fraud.

19 THE COURT: Your clients are the children.

20 MS. REICH: That's correct, Your Honor.

21 And he says that an e-mail was sent today and
22 this was sent on, I believe, Tuesday, October 27th.
23 An e-mail was sent today to the SCC and the IRS
24 officers in charge of these investigations to add
25 Attorney Reich's name to the list of those who are
26 now complicit in not investigating the children who
27 she represents; accountability for receiving money

1 derived from tax fraud via accounts handled by
2 Suzanne Sullivan and that was copied to me, Your
3 Honor.

4 I received another e-mail on Monday, November 2,
5 yesterday before court, at 7:12 am and this one
6 concerned me because it states to me that, the
7 failure for you to see the implications on the errs
8 of these disclosure failures illustrates either your
9 complicity in it or demonstrates an inability to
10 understand this complex area of tax evasion. You
11 must recuse yourself today.

12 Veronica, this is a very serious issue that you
13 have been implicated in and your firm's partners were
14 advised that a 211 has been prepared to file actions
15 on the firm which will be mailed if you fail to
16 recuse yourself this morning.

17 THE COURT: Did you consider that a threat?

18 MS. REICH: Well, Your Honor, I did. I do.
19 That the members of my firm are going to be
20 investigated if I don't recuse myself, that statement
21 concerns me. I leave it to the Court to interpret
22 it, but it did give me cause.

23 However, Your Honor, I do want to note to
24 the Court that I will not take any direct action
25 regarding what may be a threat because if I do, I
26 think that is likely to put me in conflict with Mr.
27 Nowacki and that may very well compromise my ability

1 to represent the children if I make some kind of
2 complaint against him. I felt it was critical to
3 bring it to the Court's attention but I don't want to
4 participate in an exercise that would essentially
5 bootstrap me into a conflict by creating the
6 conflict.

7 I take my responsibility to this Court and to
8 children very seriously and if I've set this
9 appointment, I am going to see it through until the
10 Court removes me.

11 I felt it was important to report it, Your
12 Honor, for that reason but I will not take action.
13 But I felt the Court needs to be aware and perhaps to
14 enter appropriate orders.

15 I should further note, Your Honor, that the ten
16 page index to those exhibits that I did receive also
17 contained certain statements that were of great
18 concern to me.

19 Besides all kinds of tax returns and statements
20 and wire transfers and transcripts, etcetera,
21 etcetera, Mr. Nowacki further states that I am asking
22 the IRS and the SCC at this time to consider
23 providing me with access to the witness protection
24 program because of the size and volume of information
25 being revealed about investor fraud makes my children
26 a target for abduction when this whistler blower
27 award is made. The witness protection program and

1 the children are a target of abduction, yes, I do
2 think that an evaluation is necessary.

3 In this regard, Your Honor, I should report to
4 the Court that beginning in early August I looked
5 through and considered a number of names that I felt
6 might be appropriate to handle this evaluation if the
7 Court orders it.

8 And I essentially looked at three that I know of
9 that are very experienced in forensic matters, are
10 very highly regarded, have excellent reputations
11 and I've worked with each of them in other cases as
12 Guardian Ad Litem or attorney for minor children and
13 I am impressed with the work with all three of them.

14 The first one is a Dr. Kenneth Robson. Now,
15 he's in West Hartford but he is one of the best
16 evaluators I know. He is also a psychiatrist so he
17 can also evaluate medication issues, has sort of a
18 broader base.

19 He has testified frequently in these courts
20 and in the regional family trial docket, very
21 experienced, more than very competent and he in
22 August told me he could start in early October. He
23 is busy but he is excellent and I did put in a call
24 this morning to find out when he could start now but
25 he hasn't gotten back to me yet.

26 His retainer would be \$7,500. If testing is
27 required, that would be an additional \$3,500. I

1 believe his hourly rate is \$300 an hour but I need to
2 confirm that, I apologize, Your Honor. And if the
3 retainer is exhausted, then he would continue to
4 bill.

5 The second person I spoke with was a Dr. Joan
6 Oppenheim. Her office is in Westport. She is
7 available to do it, also, very experienced, very
8 competent. Her hourly rate is \$300. She would
9 require a higher retainer. Her retainer is \$20,000.

10 If it is a psychological evaluation for the
11 parents only, she would assume that it would not go
12 beyond that amount and that would include writing the
13 report. If it ends up being less time, then of
14 course the parties would be entitled to a refund of
15 the retainer paid. Testimony is extra for everybody.

16 She would do the evaluation of both parents and
17 her expertise is in the area of giving strategies to
18 ameliorate certain problems. If it is an evaluation
19 of the parents only including side testing, that's
20 what I mentioned.

21 A custody evaluation, a full custody evaluation
22 with a recommendation is somewhat different. It is
23 somewhat more involved. She would ask for a retainer
24 of \$15,000 to \$20,000 but if that is exhausted then
25 she would need an evergreen retainer as well.

26 The third one that I did investigate was a Dr.
27 Steven Shoshel (phonetic) of Stamford. He is also

1 available to do it. His retainer would be \$7,000,
2 \$3,500 presumably for each parent. His hourly rate
3 is 350. He figures that the evaluation and the
4 report would be about \$15,000, give or take. His
5 testimony time is \$400 an hour and as I said, he was
6 also available.

7 I must disclose to the Court as I always do in
8 these matters that Dr. Shoshel (phonetic) is a
9 personal friend of mine. I just want that out on the
10 record from the get go. I only obviously work with
11 him in cases where I am the neutral and represent the
12 children, but that is something that I would want the
13 Court to know. I don't know if that would disqualify
14 him. He's very competent. He certainly doesn't care
15 about my opinion and I don't care about his. We
16 consider it professionally but we operate
17 independently.

18 I would be happy to consider others if the Court
19 wishes but these are three for whom I have a great
20 deal of respect and could recommend any of them
21 wholeheartedly.

22 THE COURT: What is the respective financial
23 situation of each party, to your knowledge?

24 MS. REICH: I know that they are both employed.
25 They are both employed in the television industry
26 for different networks and right now I don't recall
27 who works for who.

1 But I have seen some financial affidavits. I
2 have not looked at them. I assume Mr. Collins and
3 Mr. Nowacki can speak to that far better than I can.

4 THE COURT: Okay.

5 MS. REICH: Thank you, Your Honor.

6 THE COURT: Thank you.

7 MR. COLLINS: Your Honor, I think Attorney Reich
8 is done. I will defer to Mr. Nowacki and then
9 respond to both of them.

10 THE COURT: Okay, Mr. Nowacki.

11 MR. NOWACKI: Your Honor, I would like to be
12 sworn in.

13 THE COURT: Go ahead.

14 Mr. Nowacki, what documents are you bringing
15 to --

16 MR. NOWACKI: I am bringing some documents that
17 relate to the sequence of conversations that occurred
18 with Attorney Reich wherein what she has provided it
19 took certain communications out of sequence in
20 regards to what she has just reported which I need to
21 clarify for the Court.

22 THE COURT: I am not interested in that, Mr.
23 Nowacki. We're here on a motion for psychological --

24 MR. NOWACKI: I am going to respond on a number
25 of fronts.

26 THE COURT: You'll only respond, Mr. Nowacki, if
27 you're allowed by the Court.

1 MR. NOWACKI: Excuse me.

2 THE COURT: If you are allowed by the Court.

3 MR. NOWACKI: I understand that.

4 THE CLERK: Do you solemnly swear or solemnly
5 and sincerely affirm, as the case may be, that the
6 evidence you shall give concerning this case, shall
7 be the truth, the whole truth and nothing but the
8 truth so help you God or upon penalty of perjury?

9 MR. NOWACKI: I do.

10 THE CLERK: Thank you. Please have a seat. For
11 the record, please state your name and address.

12 MR. NOWACKI: Michael J. Nowacki, 319 Lost
13 District Drive, New Canaan, Connecticut.

14 Your Honor, I would like to address yesterday
15 morning in court in regards to what transpired
16 because obviously we're here because Attorney Collins
17 said certain thing that resolved --

18 THE COURT: That was not raised here. You were
19 ordered here. I did not make any mention of any
20 reason why, so there is nothing to refute.

21 We're proceeding today on Attorney Reich's
22 motion for a psychological evaluation.

23 MR. NOWACKI: Okay. First thing I would like to
24 do is address why I am representing myself.

25 THE COURT: You're representing yourself because
26 you've chosen to represent yourself and that's all
27 that's necessary for the Court to know.

1 MR. NOWACKI: It relates to the subject of
2 finances.

3 It was addressed in the context of Your Honor's
4 comments about --

5 THE COURT: Do you have a sworn financial
6 affidavit? That's the only thing I need to see.

7 MR. NOWACKI: Sure. This is not up to date,
8 however, Your Honor. I will give you the most recent
9 one dated September 15th and I will explain to you
10 the differences between the two situations.

11 THE COURT: I don't need to know the difference.

12 MR. NOWACKI: Okay. Just so you know, Your
13 Honor, in order to pay Attorney Reich's attorney fee
14 which was required by the Court, I had to borrow that
15 money. I had no capital available and that's the
16 reason why I'm here and representing myself. There
17 is not access capital that's available to me.

18 THE COURT: I need to see your financial
19 affidavit. That issue is not before the Court.
20 The issue is not whether or not you're representing
21 yourself, not whether or not you're paying Attorney
22 Reich's fees, not whether or not there's been any
23 order as to payment of anything else.

24 The issue -- the sole issue before this Court
25 today is whether or not the Court should order a
26 psychological evaluation of the parties as ordered by
27 Judge Munro upon Attorney Reich's involvement in the

1 case. That is the only issue.

2 MR. COLLINS: That would be Judge Malone, Your
3 Honor.

4 THE COURT: Judge Malone. What did I say?

5 MR. COLLINS: Munro.

6 THE COURT: Okay.

7 MR. NOWACKI: My financial affidavit is actually
8 over at the desk.

9 THE COURT: Okay.

10 MR. NOWACKI: Would you like me to get it?

11 THE COURT: I really don't need it today.

12 MR. NOWACKI: I'd like to respond to matters
13 that Attorney Reich addressed specifically.

14 At the beginning of the process, I sent Attorney
15 Reich an e-mail which --

16 THE COURT: Did you appeal Judge Malone's order?

17 MR. NOWACKI: For the appointment of the minor
18 children, yes, I did.

19 THE COURT: And what happened to that appeal?

20 MR. NOWACKI: And that appeal was turned down.

21 THE COURT: Okay, so we're not addressing that.
22 What do you have to say --

23 MR. NOWACKI: No, in regards to the beginning
24 communications with Attorney Reich.

25 THE COURT: I am not interested in that. I am
26 only interested in what if you have a statement in
27 opposition to why there should or should not be a

1 psychological evaluation. That is the sole issue.

2 MR. NOWACKI: I am going to address the subject
3 of the best interest of our children.

4 THE COURT: I am not interested in that right
5 now.

6 Obviously, there was a determination prior
7 that's a law the case that Judge Malone felt that it
8 was necessary to appoint Attorney Reich. That's
9 already been decided. If there was an appeal, that
10 was decided.

11 The issue now is whether or not we are going to
12 have a psychological evaluation. That's the sole
13 issue.

14 MR. NOWACKI: Well, Your Honor, I don't think
15 that is the best alternative.

16 THE COURT: That's not for you to decide. Judge
17 Malone already made that decision and you appealed it
18 and it was dismissed.

19 MR. NOWACKI: I'm here to represent my children.
20 I am not here to represent myself.

21 THE COURT: You are not here to represent your
22 children. That is not allowed by the law in the
23 State of Connecticut.

24 The law in the State of Connecticut has found
25 that parents cannot represent the best interest of
26 their children because they are not impartial. They
27 cannot be objective.

1 Therefore, the Court has the authority by the
2 State legislature to appoint attorneys for the minor
3 children and GAL's. They are the people who
4 represent children in disputed cases. That is
5 Attorney Reich's position.

6 MR. NOWACKI: So, what you're suggesting is --

7 THE COURT: I am not suggesting anything. I
8 am making a statement on the record that the sole
9 purpose for this Court today is to determine
10 whether or not it should accept Attorney Reich's
11 recommendation, most fervent recommendation that it's
12 necessary to have a psychological evaluation of the
13 parties.

14 If you can give me a reason why you do not feel
15 that is necessary, you can state that but that's what
16 you're limited to. That's what our hearing is
17 limited to today.

18 MR. NOWACKI: Your Honor, I would suggest that I
19 believe that there are reasons as to why this whole
20 process was initiated that are very disturbing to me.

21 THE COURT: That is not the issue before this
22 Court today. That is an issue for you to address in
23 a different forum, but not here.

24 If you are unhappy with the way the process is
25 going, you have to find a different forum, but that
26 is not the issue here.

27 MR. NOWACKI: The process of how Attorney Reich

1 went about her evaluation is definitely a subject of
2 concern of mine as it relates to attempts that I made
3 to meet with Attorney Reich that were refused and I
4 think that that was terribly unfair to me because I
5 just got, last night, a copy of Attorney Reich's
6 bill. Attorney Reich made a reclaim motion on
7 September the 30th.

8 THE COURT: Why is that relevant to Attorney
9 Reich's recommendation that there be a psychological
10 evaluation of the parties as directed by Judge Malone
11 previously?

12 MR. NOWACKI: Because she failed to review court
13 transcripts that were relevant to her recommendation.

14 THE COURT: Attorney Reich is a commissioner of
15 the Superior Court. She makes her own decisions as
16 to what she needs to form a basis of her belief.
17 It's not up to you. You are not court appointed.
18 You are not an objective person in this case.

19 MR. NOWACKI: I think that the suggestion that
20 because I am representing myself Pro Se that that
21 puts me at a disadvantage.

22 THE COURT: Who made that suggestion?

23 MR. NOWACKI: Pardon me?

24 THE COURT: Did that come from my mouth or come
25 from your mouth?

26 I made no such statement.

27 MR. NOWACKI: I am making the statement, Your

1 Honor, that you seem to draw a line of distinction
2 between the role of an attorney versus a role of Pro
3 Se.

4 THE COURT: I am not making any distinction.
5 The only distinction I've made is the difference
6 between the role of a parent and the role of the GAL.

7 Now, if you have anything that you want to
8 say to this Court about why there should not be a
9 psychological evaluation, I will hear that, but I
10 will hear nothing else. Nothing else was scheduled.

11 This is not a forum to discuss personal beliefs.
12 This is a forum to discuss what Attorney Reich has
13 done, what she has recommended and if the Court
14 should follow that recommendation.

15 MR. NOWACKI: Well, Your Honor it comes down to
16 whether or not do facts matter in this court.

17 THE COURT: Attorney Reich was appointed to
18 investigate the facts. That was her job, her duty.
19 She's done so. She's made a recommendation.

20 MR. NOWACKI: And the report that she gave just
21 to the Court is not fully accurate.

22 THE COURT: Then you can challenge that. But,
23 you know, this is not correct.

24 She was appointed to determine whether or not
25 there was a psychological evaluation needed. You
26 appealed that. The appeal was dismissed. We're back
27 in ball one.

1 She's made the recommendation. She's made a
2 thorough recommendation. I have the right to rely on
3 that recommendation.

4 MR. NOWACKI: And there are facts which were not
5 in her report that are reputable and I would like to
6 submit those facts.

7 THE COURT: Facts about the need for a
8 psychological evaluation?

9 MR. NOWACKI: Yes, Your Honor.

10 THE COURT: And what are those facts?

11 MR. NOWACKI: Those facts are as follows:

12 I want you to know that I've been married once
13 before.

14 THE COURT: I don't need to know that.

15 I need to know --

16 MR. NOWACKI: It relates to what my experience
17 was going through that process --

18 THE COURT: Mr. Nowacki, --

19 MR. NOWACKI: -- that is relevant to this
20 process.

21 THE COURT: Okay, at this point in time the
22 Court is going to make a ruling.

23 You are not responsive to the Court. You are
24 not being responsive. I am not interested in past
25 history. That is not before this Court. I am going
26 to make a ruling and we are going to adjourn if you
27 do not stick to the point.

1 Why should there not be a psychological
2 evaluation?

3 MR. NOWACKI: For one simple reason, it's not
4 recorded.

5 THE COURT: What do you mean it's not recorded?

6 MR. NOWACKI: My process of what I've gone
7 through is the selective editing of information
8 that's been given to the court psychiatrist in the
9 past based on my experience.

10 I requested at the beginning of this process
11 that Attorney Reich have recorded every conversation
12 between the two parents as part of that process
13 because otherwise what happens, Your Honor, when
14 you're dealing with a malignant narcissist is that
15 they lie and they lie.

16 THE COURT: Malignant narcissist.

17 Isn't that the first point that Attorney Reich
18 brought up that it was necessary because of the
19 serious allegations you've made against your wife
20 that it was necessary to have this psychological
21 evaluation?

22 MR. NOWACKI: Your Honor --

23 THE COURT: Are you a psychologist or a
24 psychiatrist that you can arbitrarily and
25 capriciously throw around diagnoses?

26 MR. NOWACKI: Your Honor, I've lived with
27 malignant narcissists and I've had to argue against

1 opposing counsel.

2 THE COURT: All right, Mr. Nowacki, I finished.
3 You finished your testimony. You may step down.

4 Mr. Collins, you may respond.

5 MR. COLLINS: Thank you, Your Honor.

6 Your Honor, all I would like to say is I
7 fully support the application of the AMC for a
8 psychological or psychiatric evaluation. I'd like
9 to just weigh in on a few points that are sort of
10 housekeeping around that.

11 One is, I know all three of the recommended
12 professionals that have been recommended by Attorney
13 Reich. I support any and all of the three of them.

14 However, it -- and they are all terrific and
15 I've seen their work on many cases. I am endorsing
16 myself Kenneth Robson as the psychiatrist in West
17 Hartford.

18 I would point out that I have no experience with
19 Kenneth Robson. I only know him by reputation. He's
20 never been involved in one of my cases personally.
21 However, my understanding of him and his
22 qualifications renders him uniquely, I think,
23 relevant and appropriate.

24 THE COURT: Well, he is the only psychiatrist.

25 MR. COLLINS: He is the only psychiatrist and I
26 think that this case calls for that. So -- although
27 I would endorse that, that is not meant to be a

1 rejection of Dr. Oppenheim or Dr. Shoshel both of
2 whom I've had experience with.

3 I think that he is the most appropriate person
4 for this case, Dr. Robson is.

5 On the issue of -- and I understand what the
6 Court's position is with regard to finances on this.
7 We have an ongoing hearing, Mr. Nowacki's motion for
8 modification, pardon me, of the child support.

9 There are current financial affidavits.

10 THE COURT: Is that before Judge Malone?

11 MR. COLLINS: No, it's before Judge Novack.

12 THE COURT: Before Judge Novack?

13 MR. COLLINS: It is, Your Honor and that is
14 ongoing and our next date is sometime in November --

15 MR. NOWACKI: December 2nd.

16 MR. COLLINS: December 2nd and 3rd.

17 So, in any event, there are current financial
18 affidavits there.

19 I would point out that both Mr. Nowacki and Ms.
20 Sullivan are gainfully employed, he for CBS News, she
21 for Fox News. They presently make roughly the same
22 amount of money.

23 I know every time I make a statement that's not
24 entirely accurate, Mr. Nowacki makes a big deal about
25 it but I am going to say they're each somewhere in
26 the 300 to \$350,000 a year annual range inclusive of
27 bonuses. One may be higher or lower. The other may

1 be a little higher or lower.

2 Also, my recollection of the financial
3 affidavits is that both parties have substantial
4 equity albeit I can't speak to the liquidity of each
5 of them.

6 My recollection is that Mr. Nowacki's liquid --
7 equity -- net equity is somewhere in the 2.3 million
8 dollar range and Ms. Nowacki or Ms. Sullivan's equity
9 somewhere in the 1.5 million dollar range. Again, I
10 could be off by a couple hundred thousand.

11 The parties are capable, I think, of paying any
12 of the three physicians and the reason I raise this
13 at this time is because I fear that that issue may
14 delay us further.

15 As Attorney Reich pointed out, we've been
16 delayed a long time as it is. So, I would
17 respectfully request that as was done with Attorney
18 Reich's fee, that the Court order knowing what I've
19 said and knowing that there are fairly recent
20 financial affidavits in the file, that the Court
21 order without prejudice and Mr. Nowacki can argue the
22 way he wants to argue and Ms. Sullivan can argue the
23 way that she wants to argue that they equally share
24 in the cost of the psychological or psychiatric
25 evaluations.

26 THE COURT: You say these financial affidavits
27 are in the file.

1 MR. COLLINS: They are in the file I would
2 presume, Your Honor, because it is upon those
3 affidavits that Judge Novack is proceeding. That's
4 all I can say.

5 We started in April. We had another day or so
6 or two in September and we're over to December. So
7 those are the ongoing affidavits.

8 I think that both parties have revised
9 their affidavits. I would rely on the most
10 recent affidavits submitted by the parties.

11 THE COURT: Mr. Nowacki, you're saying that you
12 have an affidavit but it's dated September?

13 MR. NOWACKI: Your Honor, I would like to re-
14 submit that affidavit by next Monday if that is
15 suitable?

16 THE COURT: That's fine.

17 MR. NOWACKI: I would like to just make a couple
18 comments about the three choices.

19 THE COURT: Yes.

20 MR. NOWACKI: And I rely on -- Lacey Bernier
21 was the Guardian Ad Litem. At various points in time
22 we've had some conversations about the need for Tim
23 to go into some therapy and Shoshel's name was
24 specifically, a red line was drawn through that by
25 Lacey. So, I would like to eliminate him.

26 I happen to agree with Kevin in regards to the
27 background that was given that Dr. Robson sounds like

1 a perfect choice and would like to concur if that's
2 his recommendation that the Court adopt that.

3 I would like to talk just two seconds about the
4 financial affidavits that are currently in hand. One
5 of the big disputes that we have at the moment is the
6 subject of overseas accounts that exist. You can
7 look at the tax returns for Suzanne Sullivan and you
8 will see a --

9 THE COURT: Did you submit a sworn -- both
10 financial affidavits are sworn to?

11 MR. NOWACKI: Your Honor, there are enormous
12 inaccuracies in that affidavit.

13 THE COURT: I understand you have a serious,
14 serious concerns that you've expressed I guess to
15 both counsel, but I am going to make whatever ruling
16 I base at least initially on the financial affidavits
17 that are sworn to before Judge Novack.

18 Although, I will let you submit a current one
19 and any other developments from your motion for
20 modification. I will take into consideration and I
21 will order proper remittiturs if that is deemed
22 necessary.

23 MR. NOWACKI: The two issues that are not on the
24 financial affidavit are foreign dividend income is
25 not on the financial affidavit, it's on the tax
26 return. It totals \$14,000 in the year 2008.

27 Attorney Collins has refused to provide me with

1 the information regarding the derivation of that
2 foreign dividend income. It's on the tax return.

3 In addition to that, in the 2006 return if
4 you would look at the 2006 return as part of your
5 deliberation, which I think is appropriate, there was
6 a depreciated asset of \$430,000 on the 2006 return.

7 In court, Mr. Collins represented to Judge
8 Novack that that was a depreciated asset on a 1990
9 Sebring convertible. I went up to Bridgeport, Your
10 Honor, to pick up a copy of Mr. Barrington, who is
11 the alleged owner of such car and what I found in the
12 certified record --

13 THE COURT: But Mr. Nowacki, you are presenting
14 evidence before this Court without testimony and
15 without any proof.

16 MR. NOWACKI: I have all of the records here
17 with me.

18 THE COURT: That is not before me today.

19 MR. NOWACKI: I understand that but if you are
20 going to make a ruling on the percentages you need to
21 be aware of what is inaccurate.

22 THE COURT: I said that I am going to make a
23 ruling. There will be a ruling eventually. I will
24 make a preliminary ruling.

25 MR. NOWACKI: A preliminary ruling, Your Honor.
26 I understand.

27 THE COURT: Okay.

1 MR. NOWACKI: I just wanted to insure that there
2 are serious issues here in regards to the information
3 that's in that financial affidavit and I have
4 absolute clarity on the aspect of the fraudulent
5 issues that are involved here.

6 THE COURT: And I know that they are very
7 important to you because you've raised them at great
8 length before Attorney Reich but that is not before
9 the Court today.

10 MR. NOWACKI: The other part that I want to
11 bring up as it relates to Attorney Reich's report
12 which is --

13 THE COURT: She has not made a report. She's
14 made a recommendation.

15 MR. NOWACKI: I understand that, but one of the
16 things I asked Attorney Reich to look at was the
17 subject of how the children's accounts have been
18 churned in something at Newberg and Vermin (phonetic)
19 called the SRI Group.

20 THE COURT: But that again is a financial issue
21 that's totally and absolutely unrelated to the issue
22 before this Court.

23 MR. NOWACKI: It has to do however with the
24 implications on our children of the taxes that
25 haven't been filed.

26 THE COURT: Then you bring that up before the
27 psychiatrist not before me. I am not making the

1 report.

2 MR. NOWACKI: I will be happy to do that, Your
3 Honor.

4 THE COURT: You are going to have to do that,
5 but it's not before this Court now, at all. It might
6 be before Judge Novack in the modification but it's
7 not before me.

8 MR. NOWACKI: I am just acknowledging that
9 Attorney Collins I will be filing the anglia hearing
10 file, filing necessary to re-open the judgment file
11 today.

12 THE COURT: What judgment file?

13 MR. NOWACKI: The judgment file --

14 THE COURT: From the divorce?

15 MR. NOWACKI: Correct, because there was tax
16 fraud from the beginning of this process, Your Honor.

17 THE COURT: Well, that is your right, absolutely
18 and you can do that.

19 MR. NOWACKI: And Judge Novack has indicated
20 that that is an acceptable thing for me to do.

21 THE COURT: Well, that's what you then will have
22 to do.

23 MR. NOWACKI: Because I can't get to the
24 information with the production that Attorney Collins
25 --

26 THE COURT: It will be a threshold hearing, so
27 you go ahead and file that.

1 MR. NOWACKI: Okay.

2 THE COURT: Now, the Court has taken into
3 consideration the qualifications of the three people
4 that were recommended by Attorney Reich and also
5 has taken into account the preferences stated on the
6 record by both Attorney Collins and Mr. Nowacki and
7 the Court is going to appoint Dr. Kenneth Robson,
8 the psychiatrist in West Hartford to conduct the
9 psychological evaluation.

10 The Court is not going to make a ruling
11 immediately on the split of the fee until it
12 receives by next Monday the financial affidavit of
13 Mr. Nowacki and Mr. Collins, if you could be so kind
14 as to provide the Court with a current -- not a
15 current but with a financial -- a copy of the
16 financial affidavit.

17 MR. COLLINS: I will do that, Your Honor. I
18 didn't bring it with me, but I will do that.

19 THE COURT: If you can do that so then I could
20 make a ruling as to a percentage split next Monday,
21 I'll do that and you'll receive an order.

22 Meanwhile, I am going to ask that all the
23 parties cooperate fully with Dr. Robson. If there
24 are any requirements that Dr. Robson makes of you,
25 unless you have serious concerns about them, I
26 strongly urge that you comply.

27 MR. COLLINS: Your Honor, may I respectfully

1 request that the parties be instructed to arrange for
2 the first appointment with Dr. Robson within 48 hours
3 or by the end of --

4 THE COURT: Well, I would like the first
5 appointments, at least a contact with Dr. Robson and
6 then appointment made no later than November 12th.
7 November 12th is a Thursday.

8 MR. COLLINS: Thank you, Your Honor.

9 THE COURT: Do you have the contact information
10 for Dr. Robson, Attorney Reich?

11 MS. REICH: I do, Your Honor.

12 THE COURT: So, you will provide that to both
13 Attorney Collins and to Mr. Nowacki.

14 MS. REICH: I will.

15 THE COURT: And you have to be back in
16 Bridgeport, you're starting a trial; is that correct?

17 MR. REICH: I am happy to report that the case
18 settled last night, so the urgency is not as great.

19 THE COURT: Okay, thank you.

20 MS. REICH: But I do need to go to Bridgeport.

21 I do have one additional inquiry to make of Your
22 Honor.

23 It's been my experience that those that do these
24 evaluations psychiatrists or psychologists like a
25 very, very clear instruction from the Court and there
26 have been times when it's not so clear which leads to
27 all kinds of problems.

1 Is the Court ordering a psychological evaluation
2 of the parties only, of the parents or is the Court
3 ordering a full custody evaluation?

4 THE COURT: The Court at this moment is ordering
5 a psychological evaluation of the parents.

6 If the psychiatrist deems that it's necessary
7 for him to discuss the matter with the children, it
8 is incumbent upon the psychiatrist to communicate
9 that to Attorney Reich who will then communicate it
10 to me.

11 And if it becomes apparent to the psychiatrist
12 that this matter requires, based on the psychological
13 evaluation, a full custody study and evaluation then
14 he is also to communicate that to you and you are to
15 make a motion before this Court.

16 MS. REICH: I will do so, thank you, Your Honor.

17 THE COURT: Thank you.

18 MR. COLLINS: Thank you, Your Honor.

19 MS. REICH: I would also like to ask the Court
20 to enter orders regarding further contact with my
21 firm, members of my firm and the like to address the
22 other issues that I brought before the Court because
23 it's of concern to me.

24 THE COURT: Well, Attorney Reich, I think that
25 Mr. Nowacki due process rights would require that you
26 file a proper motion so then Mr. Nowacki can address
27 whatever he feels or concerns he feels are necessary.

1 And if we need to have a hearing to determine why he
2 feels it's necessary to communicate with your firm,
3 at least we have a record for that.

4 MS. REICH: I will do so, thank you.

5 THE COURT: And if you file that motion, I will
6 try and have it written on as quickly as possible.

7 MS. REICH: Thank you.

8 * * *

FST-FA-04-0201276 : SUPERIOR COURT
NOWACKI, SUZANNE : JD STAMFORD/NORWALK
VS. : AT STAMFORD, CONNECTICUT
NOWACKI, MICHAEL : NOVEMBER 3, 2009

C E R T I F I C A T I O N

I hereby certify the foregoing pages are a true and accurate transcript of the recorded proceedings of the above referenced case, heard before the Honorable Marylouise Schofield, Judge, in the Stamford Superior Court, Stamford, Connecticut, on the 3rd day of November, 2009.

Dated at Stamford, Connecticut this 15th day of April 2010.

PIPINA PLAKOPITAS
COURT RECORDING MONITOR

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